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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,757	08/09/2002	Wai Kai Wong	Q68693	8829
23373	7590	11/22/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			PREVIL, DANIEL	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,757

Applicant(s)

WONG, WAI KAI

Examiner

Daniel Previl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/14/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-7 are presented for examination.

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Lovitt (US 6,112,437).

Regarding claim 1, Lovitt discloses a flashing device (animated display) (fig. 3) comprising a wearable band (athletic shoe 10 includes a heel portion 12 with a display panel 14 wrapping around the heel) (col. 2, lines 21-23) having: means for sensing movement (motion switch) of the band (athletic shoe 10) and generating a trigger signal in response to movement (motion switch initiates presentation of the animated display each time the shoe wearer takes a step) (col. 3, lines 22-30); a circuit means (circuit 20) responsive to trigger signal to

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generate an illumination signal and at least one light which is illuminated in response to illumination signal (individual light sources 16 are controlled by electronic module 20, the light sources illuminate the frames 30) (col. 2, lines 33-34 and lines 61-62); at least one light which is illuminated in response to illumination signal (light sources 16 illuminate frames 30) (col. 2, lines 61-62).

Regarding claim 2, Lovitt teaches a flashing device (fig. 3) wherein the band is worn on a user's arm (watchband), and movement of the user causes at least one light to flash (the present invention comprises a lateral animation display that is carried on a useful article such as wearing apparel , watchband; a person running and jumping present an animated display) (col. 1, line 42-45; col. 2, lines 59-63; col. 3, lines 55-59).

Regarding claim 6, Lovitt discloses one light includes LEDs distributed along band (display panel 14 for use on a watchband) (fig. 3; col. 3, line 23 and lines 55-60).

4. Claims 3-5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovitt (US 6,112,437) in view of Trattner et al. (US 5,463,537).

Regarding claim 3, Lovitt discloses all the limitations set forth in claim 1 but fails to explicitly disclose the movement means includes a motion switch having a conducting sphere movable in a space defined by a plurality of conducting parts.

However, Trattner discloses the movement means includes a motion switch (steel ball 22) having a conducting sphere movable in a space defined by a plurality of conducting parts (lever 18 and conductor 11) (fig. 3; col. 3, lines 23-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Trattner in Lovitt. Doing so would provide the system with the capability of triggering a signal upon movement of the user in order to increase the visibility of the user traveling at night or bad weather to enhance user's safety as taught by Trattner (col. 1, lines 6-30).

Regarding claim 4, Lovitt and Trattner disclose all the limitations in claim 2 and Trattner further discloses the trigger signal is generated when sphere moves into contact with at least two of parts (col. 3, lines 27-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Trattner in Lovitt. Doing so would provide the system with the capability of triggering a signal upon movement of the user in order to increase the visibility of the user traveling at night or bad weather to enhance user's safety as taught by Trattner (col. 1, lines 6-30).

Regarding claim 5, Lovitt and Trattner disclose all the limitations in claim 2 and Trattner further discloses the circuit means (body 4) includes an integrated circuit (body 4) connected to the motion switch (ball 22) and mounted on a printed circuit board (surface) integrated in the band (sneaker at the laces) (fig. 3;

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col. 3, lines 20-33; col. 4, lines 26-32). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Trattner in Lovitt. Doing so would provide the system with the capability of triggering a signal upon movement of the user in order to increase the visibility of the user traveling at night or bad weather to enhance user's safety as taught by Trattner (col. 1, lines 6-30).

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovitt in view of Trattner as applied to claim 2 above, and further in view of Glatt (US 5,758,947).

Regarding claim 7, Lovitt and Trattner disclose all the limitations in claim 2 but fail to explicitly disclose the LEDs include at least two sets of LEDs which are alternately illuminated when trigger signal is generated.

However, Glatt discloses LEDs include at least two sets of LEDs 14 (fig. 5) which are alternately illuminated when trigger signal is generated (opposed Leds could be sequentially illuminated in pairs around the helmet by the control circuit) (col. 4, lines 22-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Glatt in Lovitt and Trattner. Doing so would have provided the system with the capability of detection accurately a person wearing the helmet so accident can be prevented for the safety purposes as taught by Glatt (col. 4, lines 1-2).

Response to Arguments

6. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

The applicant's argument on page 7 stated that "movement of the wearer does not cause the panel to flash and the device cannot be considered to constitute a flashing device as is the case for the wearable band of the present invention". The examiner respectfully disagrees with the Applicant, because as admitted by the Applicant Lovitt discloses a motion switch that initiates presentation of the animated display each time the shoe wearer takes the step (col. 3, lines 24-30). So, individual images of frames 30 in the display panel 14 are displayed sequentially (col. 1, lines 43-45) meaning that the display panel is flashing and Lovitt further discloses the same device could be used in a watchband, pen, backpack strap etc (col. 1, lines 57-58).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Garner (US 5,903,103) discloses sequential flashing footwear.

Roy (US 5,457,900) discloses a footwear display device.

Harding (US 6,106,130) discloses a personal lighted and reflective safety system with shoulder straps for pedestrians.

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Guerra (US 5,813,148) discloses footwear with optical fiber illuminating display areas and control module.

Rodgers (US 5,339,294) discloses a watch with light means.

Dion (US 5,934,784) discloses an illuminated article of apparel.

Yu (US 6,213,619) discloses a wrist-mounted light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is 703 305-1028. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 703 305-4717. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-4700.



Daniel Previl
Examiner
Art Unit 2636

DP
November 17, 2004.